

R307. Environmental Quality, Air Quality.

R307-415. Permits: Operating Permit Requirements.

R307-415-9. Fees for Operating Permits.

(1) Definitions. The following definition applies only to Subsection R307-415-9: "Allowable emissions" are emissions based on the potential to emit stated by the director in an approval order, the State Implementation Plan or an operating permit.

(2) Applicability. As authorized by Section [~~19-2-109.1~~]19-1-201, all Part 70 sources must pay [~~an annual fee~~][-] to support the operating permit program.~~[based on annual emissions of all chargeable pollutants.]~~

~~[(a) Any Title IV affected source that has been designated as a "Phase I Unit" in a substitution plan approved by the Administrator under 40 CFR Section 72.41 shall be exempted from the requirement to pay an emission fee from January 1, 1995 to December 31, 1999.]~~

(3) Calculation of Annual Emission Fee for a Part 70 Source.

(a) The emission fee shall be calculated for all chargeable pollutants emitted from a Part 70 source, even if only one unit or one chargeable pollutant triggers the applicability of Rule R307-415 to the source.

(i) Fugitive emissions and fugitive dust shall be counted when determining the emission fee for a Part 70 source.

(ii) An emission fee shall not be charged for emissions of any amount of a chargeable pollutant if the emissions are already accounted for within the emissions of another chargeable pollutant.

(iii) An emission fee shall not be charged for emissions of any one chargeable pollutant from any one Part 70 source in excess of 4,000 tons per year.

(iv) Emissions resulting directly from an internal combustion engine for transportation purposes or from a non-road vehicle shall not be counted when calculating chargeable emissions for a Part 70 source.

(b) The emission fee portion of the total fee for an existing source prior to the issuance of an operating permit, shall be based on the most recent emission inventory available unless a Part 70 source elected, prior to July 1, 1992, to base the fee for one or more pollutants on allowable emissions established in an approval order or the State Implementation Plan.

(c) The emission fee portion of the total fee after the issuance or renewal of an operating permit shall be based on the most recent emission inventory available unless a Part 70 source elects, prior to the issuance or renewal of the permit, to base the fee for one or more chargeable pollutants on allowable emissions for the entire term of the permit.

(d) When a new Part 70 source begins operating, it shall pay [~~an~~]the emission fee portion of the total fee for that fiscal year, prorated from the date the source begins operating plus any

additional Part 70 fees. The emission fee portion of the total fee for a new Part 70 source shall be based on allowable emissions until that source has been in operation for a full calendar year, and has submitted an inventory of actual emissions. If a new Part 70 source is not billed in the first billing cycle of its operation, the emission fee plus any additional fees shall be calculated using the emissions that would have been used had the source been billed at that time. This fee shall be in addition to any subsequent emission fees.

(e) When a Part 70 source is no longer subject to Part 70, the emission fee portion of the total fee shall be prorated to the date that the source ceased to be subject to Part 70. If the Part 70 source has already paid an emission fee that is greater than the prorated fee, the balance of the emission fee will be refunded. No other Part 70 fees shall be refunded.

(i) If that Part 70 source again becomes subject to the emission fee requirements, it shall pay an emission fee for that fiscal year prorated from the date the source again became subject to the emission fee requirements plus any additional fees typically charged for Part 70 sources for that year. The fee shall be based on the emission inventory during the last full year of operation. The emission fee shall continue to be based on actual emissions reported for the last full calendar year of operation until that source has been in operation for a full calendar year and has submitted an updated inventory of actual emissions.

(ii) If a Part 70 source has chosen to base the emission fee on allowable emissions, then the prorated fee shall be calculated using allowable emissions.

(f) Modifications. The method for calculating the emission fee for a source shall not be affected by modifications at that source, unless the source demonstrates to the director that another method for calculating chargeable emissions is more representative of operations after the modification has been made.

(g) The director may presume that potential emissions of any chargeable pollutant for the source are equivalent to the actual emissions for the source if recent inventory data are not available.

(4) Collection of Fees.

(a) The ~~[emission]~~Part 70 fees ~~[is]~~are due on October 1 of each calendar year or 45 days after the source has received notice of the amount of the fee, whichever is later.

(b) The director may require any owner or operator of the source ~~[person]~~who fails to pay the annual ~~[emission]~~fees by the due date to pay interest on the fee and a penalty under Subsection 19-2-109.1(4)[(7)](a) or revoke the operating permit under Subsection 19-2-109.1(4)(b).

(c) An owner or operator ~~[person]~~ may contest ~~[an emission]~~ a Part 70 fee assessment, or associated penalty, under 19-2-

109.1(5)[(+8)].

(d) To reinstate the permit revoked under Subsection 19-2-109.1(4)(b), an owner or operator shall pay the outstanding fees, a penalty of not more than 50% of outstanding fees, and interests on the outstanding fees computed at 12% annually.

KEY: air pollution, greenhouse gases, operating permit, emission fees

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